

1 STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
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3 Telephone: (619) 533-3476
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5 Petitioner

6
7 **BEFORE THE CITY OF SAN DIEGO**
8 **ETHICS COMMISSION**
9

10 In re the Matter of:) Case No.: 2012-50
11 CALIFORNIA TEAMSTERS PUBLIC)
AFFAIRS COUNCIL, PUBLIC AFFAIRS,) **STIPULATION, DECISION, AND**
12) **ORDER**
Respondent.)
13)
14)
15)

16 **STIPULATION**

17 **THE PARTIES STIPULATE AS FOLLOWS:**

18 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
19 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
20 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
21 Code [SDMC] relating to, among other things, the provisions of the Election Campaign Control
22 Ordinance [ECCO], SDMC section 27.2901, *et seq.*

23 2. At all times mentioned herein, California Teamsters Public Affairs Council, Public
24 Affairs [California Teamsters] was a state general purpose committee sponsored registered with
25 the State of California (Identification No. 742500). California Teamsters is referred to herein as
26 "Respondent."

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1 4. This Stipulation will be submitted for consideration by the Ethics Commission at its
2 next scheduled meeting, and the agreements contained herein are contingent upon the approval
3 of the Stipulation and the accompanying Decision and Order by the Ethics Commission.

4 5. This Stipulation resolves all factual and legal issues raised in this matter by the
5 Ethics Commission without the necessity of holding an administrative hearing to determine
6 Respondent's liability.

7 6. Respondent understands and knowingly and voluntarily waives any and all
8 procedural rights under the SDMC, including, but not limited to, a determination of probable
9 cause, the issuance and receipt of an administrative complaint, the right to appear personally in
10 any administrative hearing held in this matter, the right to confront and cross-examine witnesses
11 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to
12 have the Ethics Commission or an impartial hearing officer hear this matter. Respondent agrees
13 to hold the City of San Diego harmless from any and all claims or damages resulting from the
14 Commission's investigation, this stipulated agreement, or any matter reasonably related thereto.
15 Respondent further agrees that the terms of this Stipulation constitute compliance with the
16 provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a
17 reference to each violation, and an order.

18 7. Respondent acknowledges that this Stipulation is not binding upon any other law
19 enforcement or government agency and does not preclude the Ethics Commission from referring
20 this matter to, cooperating with, or assisting any other law enforcement or government agency
21 with regard to this or any other related matter.

22 8. The parties agree that in the event the Ethics Commission refuses to accept this
23 Stipulation, it shall become null and void. Respondent further agrees that in the event the Ethics
24 Commission rejects the Stipulation and a full evidentiary hearing before the Ethics Commission
25 becomes necessary, no member of the Ethics Commission or its staff shall be disqualified
26 because of prior consideration of this Stipulation.

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1 **Summary of Law and Facts**

2 9. ECCO defines “committee” as any person or combination of persons who raise
3 \$1,000 or more for the purpose of supporting or opposing a candidate or ballot measure, or make
4 independent expenditures of \$1,000 or more, within a single calendar year. SDMC § 27.2903.

5 10. ECCO requires committees to file campaign statements in the time and manner
6 required by California Government Code section 81000, *et seq.* and the regulations adopted by
7 the Fair Political Practices Commission. It is unlawful under ECCO to fail to comply with the
8 disclosure requirements of ECCO and state law. SDMC § 27.2930(j).

9 11. According to Government Code sections 82036.5 and 84204, any committee that
10 makes independent expenditures totaling \$1,000 or more to support or oppose a candidate or
11 measure in the sixteen day period preceding an election is required to file a Late Independent
12 Expenditure Report [Form 496] within twenty-four hours with the City Clerk. For the June 5,
13 23012, primary election, this sixteen day period commenced on May 20, 2012.

14 12. On May 23, 2012, Respondent made a payment in the amount of \$1,980.32 for a
15 mailer distributed to 3,000 City residents in support of the mayoral candidacy Nathan Fletcher.

16 13. On June 4, 2012, eleven days late and one day before the primary election,
17 Respondent filed a Form 496 with the City Clerk and disclosed this independent expenditure.

18 **Counts**

19 **Count 1 - Violation of SDMC section 27.2930**

20 14. Respondent violated SDMC section 27.2930 by failing to timely disclose the
21 independent expenditure it made on May 23, 2012, in support of a City candidate. Respondent
22 was required to file a Form 496 to disclose this independent expenditure on May 24, 2012, but
23 did not do so until June 4, 2012, eleven days late.

24 **Factors in Mitigation**

25 15. Respondent has cooperated fully with the Ethics Commission investigation.

26 **Conclusion**

27 16. Respondent agrees to take necessary and prudent precautions to ensure compliance
28 with all provisions of ECCO in the future.

17. Respondent acknowledges that the Ethics Commission may impose increased fines in connection with any future violations of the City's campaign laws.

18. Respondent agrees to pay a fine in the amount of \$500 for violating SDMC section 27.2930. This amount must be paid by check or money order made payable to the City Treasurer no later than October 31, 2012. Respondent acknowledges that if the fine is not timely paid in full, the Commission may refer the collection of the fine to the City Treasurer's Collection Division, which may pursue any or all available legal remedies to recover late penalties, interest, and costs, in addition to seeking the outstanding balance owed.

[REDACTED]

DATED: _____

STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

[REDACTED]

DATED: _____

CALIFORNIA TEAMSTERS PUBLIC AFFAIRS
COUNCIL, PUBLIC AFFAIRS, Respondent
By: Rome Aloise

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on _____, 2012. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of \$500.

[REDACTED]

DATED: _____

CLYDE FULLER, Chair
SAN DIEGO ETHICS COMMISSION